

UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

EPIC SYSTEMS CORPORATION,	)	
	)	
Plaintiff,	)	
	)	Case No.: 06-255-JJF
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
ACACIA RESEARCH CORPORATION and	)	
RESOURCE SCHEDULING CORPORATION,	)	
	)	
Defendants.	)	

**PLAINTIFF, EPIC SYSTEMS CORPORATION'S RESPONSE AND AFFIRMATIVE  
DEFENSES TO DEFENDANT'S COUNTERCLAIM**

Plaintiff, Epic Systems Corporation ("Epic"), hereby states its response and affirmative defenses to Defendant Resource Scheduling Corporation's ("RSC") counterclaim as follows:

**PARTIES**

1. Epic admits the allegations in Paragraph 12 of the Counterclaim.
2. Epic admits the allegations in Paragraph 13 of the Counterclaim.

**JURISDICTION AND VENUE**

3. Epic admits the allegations in Paragraph 14 of the Counterclaim.
4. In response to Paragraph 15 of the Counterclaim, Epic admits that venue is proper.

**CLAIMS FOR PATENT INFRINGEMENT**

5. In response to Paragraph 16 of the Counterclaim, Epic admits that on June 26, 1990, the '743 Patent was issued and is entitled "Method and System for Scheduling, Monitoring, and Dynamically Managing Resources." Epic admits that a true and correct copy of that patent is attached as Exhibit A to the Counterclaim. Epic denies the remaining allegations in Paragraph 16 of the Counterclaim.

6. In response to Paragraph 17 of the Counterclaim, Epic lacks sufficient information to admit or deny the first sentence and therefore denies. Epic denies the remaining allegations in Paragraph 17.

7. Epic denies the allegations in Paragraph 18 of the Counterclaim.

8. In response to Paragraph 19 of the Counterclaim, Epic admits that it has known of the '743 Patent since receipt of Plaintiff's letter of March 23, 2006, Exhibit B to the Complaint. Epic denies the remaining allegations in Paragraph 19 of the Counterclaim.

9. Epic denies the allegations in Paragraph 20 of the Counterclaim.

10. Epic denies the allegations in Paragraph 21 of the Counterclaim.

11. Epic denies the allegations in Paragraph 22 of the Counterclaim.

#### **AFFIRMATIVE DEFENSES**

1. The Counterclaim fails to state a claim upon which relief may be granted.

2. The claims of the '743 Patent are invalid and unenforceable for failing to meet all applicable statutory requirements in Title 35 of the United States Code including, but not limited to, 35 U.S.C. §§ 101, 102, 103 and/or 112 as conditions for patentability.

3. Epic has not infringed any valid claim of '743 Patent nor has Epic induced or contributed to any infringement of any valid claim of the '743 Patent.

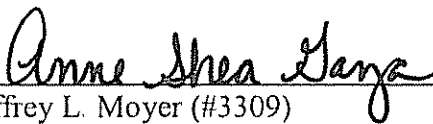
4. The Counterclaim for damages is barred in whole or in part by 35 U.S.C. §§ 286 and 287.

5. The Counterclaim is barred in whole or in part by the doctrines of waiver, laches and/or estoppel.

6. Epic reserves the right to supplement its defenses that it confirms or discovers during the course of this matter.

WHEREFORE, Epic demands that RSC's Counterclaim be dismissed with prejudice and that judgment on Epic's Complaint be entered against RSC. Epic further demands a declaration: (1) that the claims in the '743 Patent are invalid and unenforceable; (2) that the claims in the '743 Patent are not infringed by Epic; (3) that Epic is entitled to a full recovery of all of its costs and attorneys' fees; (4) that this case is exceptional; and (5) any such further and other relief as the Court deems appropriate.

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Dated: December 21, 2006

  
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UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE


CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2006, I caused to be served by hand delivery the foregoing document and electronically filed the same with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following:

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I hereby certify that on December 21, 2006, I caused to be sent by Federal Express the foregoing document to the following non-registered participant:

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